

CENTER FOR LAW IN THE PUBLIC INTEREST

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May 20, 2004

Malinda Hall
Cal/EPA - Office of the Secretary
Environmental Justice Program
PO Box 2815
Sacramento, CA 95812

RE: Public Comment on Recommendations for the Development of an Intra-Agency Environmental Justice Strategy

Dear Interagency Working Group on Environmental Justice:

The Center for Law in the Public Interest respectfully submits the following comments on the Recommendations for the Development of an Intra-agency Environmental Justice Strategy.

I. Introduction

The Center generally applauds the Interagency Working Group's proposed recommendations. The Center endorses, for example, the explicit acknowledgement that Cal/EPA's vision for environmental justice should involve equal protection from environmental hazards and equal access to and fair treatment in the Cal/EPA's decision-making processes for all Californians, regardless of race, culture, or income. The Center also supports Goal 3, which recommends improved research and data collection with regard to communities of color and low-income populations.

However, the draft proposal devotes significant attention to redressing existing environmental justice problems and preventing the creation of new problems, but neglects to devote adequate attention to the fair distribution of environmental benefits as a mechanism for achieving true environmental justice.

II. Lessons from the Environmental Justice Movement

We know from the environmental justice movement that communities of color and low-income communities: (1) disproportionately suffer from environmental degradation, (2) are denied the benefits of public goods, including parks and other environmental benefits, (3) lack the information necessary to understand the impact of environmental policies on their lives, and (4) are denied full and fair public participation in the decision-making process.

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Goal 1, as articulated by Cal/EPA, will help address the need for access to information and full and fair public participation in the environmental decision-making process. Goal 3 will help document environmental degradation and related human health problems in communities of color and low-income communities, but improved research and data collection to promote and address environmental justice *must* include research and data collection related to the distribution of parks, schools with playgrounds, beaches, and other open space in low-income communities and communities of color.

In addition to providing equal protection from environmental and health hazards, Cal/EPA's environmental justice strategy should include greater emphasis on ensuring equal access to environmental and health benefits, such as parks, playgrounds, schools, and beaches. The Cal/EPA environmental justice strategy should encourage agencies to collect and analyze data necessary to document inequities and to establish or develop positive health and environmental benefits in communities of color and low-income communities, which disproportionately lack access to open space – a fundamental environmental good.

III. Communities of Color and Low-Income Communities Are Disproportionately Denied the Benefits of Parks and Other Public Resources Necessary for Healthy Communities

All healthy communities need a wide range of accessible, safe, and affordable opportunities to be physically active and healthy. Communities of color and low-income communities, however, are disproportionately denied the benefits of parks and other safe spaces necessary for physical activity, as well as other public resources. As a result, people of color and people of lower socioeconomic status disproportionately suffer the health consequences of physical inactivity, including diabetes, overweight, and obesity. Urban areas like Los Angeles, for example, systemically fail to provide adequate open space for recreation in parks and schools, particularly in the inner city. Parks and other recreational opportunities provide significant benefits to human health and the environment. Cal/EPA should work to ensure that funding and resources for parks and community greening campaigns should be distributed equitably according to each community's need.

A study by the University of Southern California reaffirmed the unequal park distribution in Los Angeles and found that low-income communities of color residing in the older inner core had less access to park space than white-dominated and higher income areas.¹

Local Proposition K in Los Angeles, for example, generates \$25 million per year for the acquisition, improvement, construction, and maintenance of City parks and recreation facilities in order to address the inadequacies and deterioration of the City's youth infrastructure, including parks and recreation centers. The USC study found, however, that even Proposition K moneys have not been allocated to areas where the money is most needed.² The Los Angeles neighborhood of South Central – with the city's second-highest poverty rate, highest share of

¹ Stephanie Pincetl, et al., *Toward a Sustainable Los Angeles: A "Nature's Services" Approach* 39 (Mar. 2003).

² *Id.*

children, and lowest access to nearby park space – received only about half as much per-child Proposition K funding as affluent West Los Angeles received.³

The California Public Policy Institute has reported that the majority of Californians (64%) agree that poorer communities have less than their fair share of well-maintained parks and recreational facilities. Latinos are far more likely than are non-Hispanic whites (72% to 60%) to say that poorer communities do not receive their fair share of these environmental benefits. A majority of residents (58%) agree that compared to wealthier neighborhoods, lower-income and minority neighborhoods bear more than their fair share of the environmental burdens of toxic waste and polluting facilities.⁴

Nevertheless, communities of color and low-income communities were the biggest supporters of California's recent Proposition 40 – the largest resource bond in United States history, with \$2.6 billion for parks, clean water and clean air. Prop 40 passed in March 2002, with the support of 77% of black, 74% of Latino, 60% of Asian, and 56% of non-Hispanic white voters. Seventy-five percent of voters with an annual family income below \$20,000 and 61% with a high school diploma or less supported Prop 40 – the highest among any income or education levels.⁵ Proposition 40 demolished the myth that a healthy environment is something low-income communities and communities of color do not care about or will not pay for.

IV. Equal Access to Environmental Benefits is Necessary to Achieve True Environmental Justice

Numerous studies have shown that time spent outdoors is the most powerful correlate of physical activity.⁶ The CDC reported that creation of or enhanced access to places for physical activity led to a 25.6% increase in the percentage of people exercising three or more days per week.⁷ The *American Journal of Preventive Medicine* showed that creation of or enhanced access to places for physical activities, together with informational outreach, resulted in a 48.4% increase in frequency of physical activity.⁸

A healthy community is one that is safe with schools, parks, swimming pools, trails, recreation centers, playgrounds, roads, transit, and other services to meet the needs of the people.⁹ Providing space and facilities such as parks, school yards, and open space can create

³ Paul M. Sherer, *Why America Needs More City Parks and Open Space*, Trust for Public Land, available online at www.tpl.org, 7 (2003).

⁴ Mark Baldasare, *Public Policy Institute of California Statewide Survey: Special Survey on Californians and the Environment* vi (June 2002).

⁵ *L.A. Times* state wide exit poll, March 7, 2002.

⁶ James F. Sallis, PhD; Adrian Bauman, MBBS, PhD; and Michael Pratt, MD, MPH, "Environmental and Policy Interventions to Promote Physical Activity," *American Journal of Preventive Medicine* 15(4), 383 (1998).

⁷ Paul M. Sherer, *Why America Needs More City Parks and Open Space*, Trust for Public Land, available online at www.tpl.org, 13 (2003).

⁸ Emily B. Kahn et al. and the Task Force on Community Preventive Services, "The Effectiveness of Interventions to Increase Physical Activity," *American Journal of Preventive Medicine* 22(4S), 87-88 (2002).

⁹ See U.S. Dept. Health and Human Services, *Healthy People in Healthy Communities* 1-2 (Feb. 2001).

opportunities for recreation and healthy lifestyles.¹⁰ It is a public responsibility to provide safe, accessible places for children to play or adults to walk, jog, or ride a bike, and to require daily physical education in our schools.¹¹ Promoting healthy lifestyles requires a comprehensive approach that includes systemic policy changes to create environments conducive to physical activity.¹²

In addition to the numerous health benefits they provide, parks are a democratic commons that bring people together as equals and provide different rhythms for everyday life. People in parks play, walk, talk, kiss, sit, jog, bike, learn, bird, protest, pray, or work. Parks cool the city and clean the air and ground. Clean, safe, and accessible parks, school yards, beaches, and wilderness areas like forests are not a luxury.

The principle of environmental justice involves not only the fair distribution of negative environmental factors such as power plants and waste transfer stations, but also the equitable distribution of and access to public environmental goods such as parks, playgrounds, schools, and beaches. Given the established environmental and health benefits of access to open space and the current unequal distribution of parks and other open space, the Center recommends that Cal/EPA take deliberate, affirmative steps toward ensuring equal access to these environmental and health benefits, in addition to preventing unequal exposure to environmental and health hazards.

V. Latino Policy Agenda

Latino leaders and organizations throughout the state developed the Latino Policy Agenda for California to bring together the Latino community, build bridges to other communities, and guide legislation and policy in California over the next several years. The Agenda covers a variety of substantive areas of public policy, including environmental justice and environmental quality. The Latino Policy Agenda is a state-focused vision that should be incorporated into the Goals set forth in the Recommendations for the Development of an Intra-agency Environmental Justice Strategy.

The Latino Policy Agenda was prepared by the Center for Law in the Public Interest, in collaboration with several organizations, including the Mexican American Legal Defense and

¹⁰ See Ross C. Brownson, et al., "Environmental and Policy Determinants of Physical Activity in the United States," *American Journal of Public Health*, 91:12, (Dec. 2001). See also James F. Sallis, Ph.D., et al., "Environmental and Policy Interventions to Promote Physical Activity," *American Journal of Preventive Medicine* 1998; 15(4), 389 (1998).

¹¹ U.S. Dept. of Health and Human Services, *The Surgeon General's Call to Action To Prevent and Decrease Overweight and Obesity* 12-14 (2001) available at <http://www.surgeongeneral.gov/topics/obesity/calltoaction/CalltoAction.pdf>. See also Report of an Expert's Meeting, *Healthy Places, Healthy People: Promoting Public Health & Physical Activity Through Community Design*, (November 2000). See also Strategic Alliance for Healthy Food and Activity Environments, <http://www.preventioninstitute.org>.

¹² Gretchen Williams Torres and Mary Pittman, *Active Living Through Community Design: A White Paper Prepared for the Robert Wood Johnson Foundation* 9-10 (Feb. 2001).

Education Fund, Hispanas Organized for Political Equality, Latino Issues Forum, Latin Business Owners Association of America, the William C. Velasquez Institute, the League of United Latin American Citizens, the Mexican American Political Association, and La Raza Lawyers Association. The Latino Policy Agenda is available on the Center's website (www.clipi.org). Relevant recommendations from the Latino Policy Agenda include:

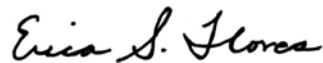
- The governor, legislature and executive state agency heads must develop and implement a statewide vision, mission and strategic plan for distributing the benefits and burdens of public works and environmental projects in ways that are equitable, protect human health and the environment, and promote economic vitality for all Californians.
- In order to promote democratic values of equal justice, full information and full and fair public participation, the governor and state agency heads must assign budget, staff, responsibility, and accountability to develop and implement this statewide vision. The leadership and staff of state agencies, commissions, committees, and conservancies must reflect the diversity of the people of California. The legislature must ensure programs, measures and appointments promote this statewide vision.
- State financed agencies must gather, analyze and publish information about the distribution of environmental burdens and benefits. Only the kind of analysis that follows the money can correctly assess who benefits from the investment of public resources, and who gets left behind. Agencies should use and publish analyses with GIS and 2000 census data based on race, ethnicity, income and education levels, population density, northern v. southern California, and other relevant factors.
- Full information will enable full and fair public participation in the planning and administrative processes. State agencies must provide communities of color and low-income communities the opportunity to participate fully and fairly in the development and implementation of this statewide vision. Materials must be prepared in ways that the affected public can understand to ensure strong and accessible public participation.
- The state administration must promote equal access to parks, beaches, recreation and open space by creating parks and investing resources (including Prop 12, 13, 40 and future bond funds) in the most underserved communities and through effective enforcement. In addition to providing recreation for children and their families and friends, and healthy alternatives for at-risk youth, parks help clean the air, ground, and water; promote human health; improve surrounding real estate values; create quality jobs; and contribute to economic vitality and quality of life. Today we must promote equal access to beaches through enforcement of easements to reach the California coastline.
- State government must promote clean air and clean water by enforcing state and federal laws enacted to reduce, control, and eliminate pollution of our urban centers, our air, our coasts, and our inland waterways. In reviewing, siting, and approving public infrastructure projects (e.g., highways, sewage treatment facilities, power facilities, waste storage and disposal facilities, etc.), special attention is required to prevent discriminatory impacts and to ensure environmental burdens associated with such projects are equitably distributed. In addition, state agencies must seek to reduce existing burdens on communities of color and low income communities, including the disproportionate exposure of such communities and their residents to elevated levels of diesel and other harmful air contaminants and sewage, stormwater runoff, and other harmful discharges that foul our urban beaches. Health risk

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assessments, community health studies, and timely notice of potentially harmful exposures must be provided to these communities and their residents, both to protect the health and safety of their residents and to promote public confidence.

The Center for Law in the Public Interest commends Cal/EPA on its efforts to develop an Environmental Justice Strategy that promotes equality and affords fair treatment, full access and full participation to all Californians, including low-income communities and communities of color. We urge Cal/EPA to devote more attention to the fair distribution of environmental benefits as a mechanism for achieving true environmental justice.

Sincerely,

A handwritten signature in black ink that reads "Erica S. Flores". The signature is written in a cursive, flowing style.

Erica S. Flores
Staff Attorney
Center for Law in the Public Interest